

REMARKS

Claims 4-9 and 21 are now pending in the above-captioned application.

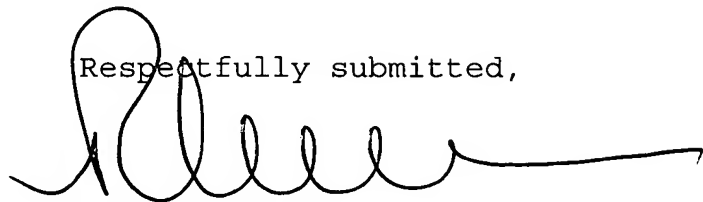
Applicant notes with appreciation that the Examiner has indicated allowable subject matter. Claims 4-9 and 21 were indicated allowable over the Prior Art of record if placed into independent form including the base claim and any intervening claims. By the above amendment, applicant has placed claims 4 and 21 into independent form as suggested by the Examiner. Claims 5-9 depend from claim 4 directly or indirectly. Thus, claims 4-9 and 21 are now clearly in condition for allowance.

The Examiner rejected the claims under 35 U.S.C. §112, first paragraph on the grounds that the phrase "characterized by a ratio reduction between root structure to canopy volume..." was not supported by the Specification. This phrase has been removed from the claims as amended, and now the rejection is moot.

The Examiner made a REQUIREMENT FOR INFORMATION under 7 CFR 1.105 regarding applicants date of first disclosure. As noted in the affidavit, applicant invented the present invention prior to the date of the GARRETT reference (applicant's affidavit, however, was not persuasive). Applicant has not been able to locate detailed records as requested by the Examiner, however, applicant did not disclose or otherwise make public the present invention more than one year prior to the filing date of the ~~present~~ ^{parent} application.

Claims 4-9 and 21 are now clearly in condition for allowance. An early Notice of Allowance is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. Bell', with a long horizontal flourish extending to the right.

Robert P. Bell
Registration Number 34,546

Robert Platt Bell
Registered Patent Attorney
8033 Washington Road
Alexandria, VA 22308

(703) 768-0340

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